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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 090206140-91081-03]

RIN 0648-XC227

Reef Fish Fishery of the Gulf of Mexico; Gulf of Mexico

Individual Fishing Quota Programs

AGENCY: National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; determination of catastrophic  
conditions.

SUMMARY: In accordance with the regulations implementing the  
individual fishing quota (IFQ) programs for the commercial red  
snapper and grouper/tilefish components of the reef fish fishery  
in the Gulf of Mexico (Gulf), the Regional Administrator,  
Southeast Region, NMFS (RA) has determined that catastrophic  
conditions exist in the following Louisiana Parishes:

Lafourche, St. Bernard, Plaquemines, and Jefferson, as a result  
of Hurricane Isaac. Consistent with those regulations, the RA  
has authorized IFQ participants within this affected area to  
temporarily use paper-based forms, if necessary, for basic  
required IFQ administrative functions, e.g., landing

transactions. This temporary rule announcing the determination of catastrophic conditions and allowance of alternative methods for completing required IFQ administrative functions is intended to facilitate continuation of IFQ operations during the period of catastrophic conditions.

DATES: This temporary rule is effective from [insert date of publication in the FEDERAL REGISTER], through October 9, 2012.

FOR FURTHER INFORMATION CONTACT: Anik Clemens, (727) 551-5611, e-mail Anik.Clemens@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Amendment 26 to the FMP established an IFQ program for the commercial red snapper component of the Gulf reef fish fishery (71 FR 67447, November 22, 2006). Amendment 29 to the FMP established an IFQ program for the commercial grouper and tilefish components of the Gulf reef fish fishery (74 FR 44732, August 31, 2009). Regulations implementing these programs (50 CFR 622.16 and 622.20) require that IFQ participants have access to a computer and Internet access and that they conduct

administrative functions associated with the IFQ program, e.g., landing transactions, online. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may authorize IFQ participants in the affected area who are unable to submit information electronically to use paper-based forms to complete IFQ administrative functions for the duration of the catastrophic conditions. The RA must determine that catastrophic conditions exist, specify the duration of the catastrophic conditions, and specify which participants or geographic areas are deemed affected by the catastrophic conditions.

Hurricane Isaac made landfall in Plaquemines Parish, Louisiana, as a Category 1 hurricane on August 28, 2012. Strong winds and flooding from this hurricane impacted coastal communities throughout southeast Louisiana, resulting in power outages and damage to homes, businesses, and infrastructure. As a result, the RA has determined that catastrophic conditions exist in Lafourche, St. Bernard, Plaquemines, and Jefferson Parishes, Louisiana. Through this temporary rule, the RA is authorizing IFQ participants within this affected area to use paper-based forms from [insert date of publication in the FEDERAL REGISTER], through October 9, 2012. NMFS will provide additional notification to affected participants via NOAA

weather radio, Fishery Bulletin, and other appropriate means.

NMFS previously provided each IFQ dealer with the necessary paper forms (sequentially coded) and instructions for submission in the event of catastrophic conditions. Paper forms are also available from the RA upon request. The electronic system for submitting information to NMFS will continue to be available to all participants, and participants in the affected area are encouraged to continue using this system, if accessible.

The administrative program functions available to participants in the area affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via IFQ Customer Service 1-866-425-7627 Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf red snapper and grouper and tilefish species managed under the Gulf IFQ Programs, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.16(a)(3)(iii) and

622.20(a)(3)(iii) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because this temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because the rules implementing the Gulf IFQ programs, namely Amendment 26 to the FMP (71 FR 67447, November 22, 2006) and Amendment 29 to the FMP (74 FR 44732, August 31, 2009), have already been subject to notice and comment. These rules authorize the RA to determine when catastrophic conditions exist, and which participants or geographic areas are deemed affected by catastrophic conditions. The rules also authorize the RA to provide timely notice to affected participants via publication of notification in the Federal Register, NOAA Weather Radio, fishery bulletins, and other appropriate means. All that remains is to notify the public that catastrophic conditions exist and that paper forms may be utilized in the affected area. Additionally, delaying this temporary rule to provide prior notice and opportunity for public comment would be contrary to the public interest because affected participants

are still fishing for these species in the affected area and need a means of completing their landing transactions. With the power outages that have occurred in the affected area due to Hurricane Isaac numerous businesses are unable to complete landings transactions electronically.

In order to continue with their businesses, they need to be aware they can still complete landing transactions using the paper forms.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: September 6, 2012

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Lindsay Fullenkamp,  
Acting Deputy Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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